

Respectfully submitted,

HAYS, McCONN, RICE & PICKERING

BY: B. G.

BRUCE C. GAIBLE
State Bar No.: 07567400
400 Two Allen Center
1200 Smith Street
Houston, Texas 77002
713/654-1111 Fax: 713/650-0027

ATTORNEY FOR DEFENDANT,
ANUM ENTERPRISES, INC.

CRUSE, SCOTT, HENDERSON
& ALLEN, L.L.P.

BY: Stephen R. Bailey

Stephen R. Bailey *By Permission
State Bar No.: 01536660
2777 Allen Parkway 7th Floor
Houston, TX 77019
(713)650-6600 Fax (713)650-1720

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument has been duly sent by U. S. mail, certified mail return receipt requested, hand delivery, or by telecopy, on this 4th day of ~~December, 2007~~ ^{Sunday, 2008} to the following counsel:

Stephen R. Bailey
Jay H. Henderson
Cruse, Scott, Henderson & Allen
2777 Allen Parkway
7th Floor
Houston, Texas 77019

BG M

Bruce C. Gaible

HAYS | McCONN
Attorneys at Law

BRUCE C. GAIBLE
WWW.HAYSMCONN.COM

DIRECT LINE: (713) 752-8301
BGAIBLE@HAYSMCONN.COM

January 4, 2008

Hand Delivered

Mr. Delton Arnic
113th District Clerk
Harris County
201 Caroline, 10th Floor
Houston, Texas 77002

FILED
Theresa Chang
District Clerk
JAN 04 2008
By Harris County, Texas
Deputy

Re: Cause No. 2005-34601; *Marcy Berkley Dickey, Individually and a/n/f of Dashun Dickey and Kristian Dickey v. Metabolife International, Inc., et al*; Pending in the 113th Judicial District Court of Harris County, Texas

Dear Mr. Arnic:

Enclosed for filing in the above-captioned matter is an original and one copy of the following:

- Joint Motion to Lift Abatement for the Limited Purpose of Transfer;
- Order;
- Joint Motion to Transfer Civil Action Pursuant to Mandatory Provisions of 28 U.S.C. § 157(b)(5); and
- Order

Please file in your usual manner and return the copy file stamped to the undersigned to evidence the filing of same. *Pursuant to our telephone conversation with Dorisina Hurd since the motions are joint motions, please present the Motions and Orders to the Judge for consideration.*

HAYS, MCCONN, RICE & PICKERING
A Professional Corporation

04909.161 / 1065726.1

400 Two Allen Center | 1200 Smith Street | Houston, Texas 77002
Telephone 713.654.1111 | Facsimile 713.650.0027 | haysmcconn.com

January 4, 2008

Page 2

Your cooperation in this matter is greatly appreciated.

Sincerely,

HAYS, McCONN, RICE & PICKERING



Bruce C. Gaible

BCG:jb

Enclosures

cc: Mr. Stephen R. Bailey
Cruse, Scott, Henderson & Allen
2777 Allen Parkway
7th Floor
Houston, Texas 77019

HAYS | McCONN
Attorneys at Law

BRUCE C. GAIBLE
www.HAYSMCONN.COM

DIRECT LINE: (713) 752-8301
BGAIBLE@HAYSMCONN.COM

December 21

FILED

Theresa Chang
District Clerk

FEB 05 2008

Time: _____
By _____
Harris County, Texas
Deputy

Hand Delivered

Mr. Delton Arnic
113th District Clerk
Harris County
201 Caroline, 10th Floor
Houston, Texas 77002

Re: Cause No. 2005-34601; *Marcy Berkley Dickey, Individually and a/n/f of Dashun Dickey and Kristian Dickey v. Metabolife International, Inc., et al*; Pending in the 113th Judicial District Court of Harris County, Texas

Dear Mr. Arnic:

Enclosed for filing in the above-captioned matter is an original and one copy of a Notice of Oral Hearing on February 25, 2008, at 10:00 a.m. on the Joint Motion to Lift Abatement for the Limited Purpose of Transfer and Joint Motion to Transfer Civil Action Pursuant to Mandatory Provisions of 28 U.S.C. § 157(b)(5) previously filed. Please file in your usual manner and return the copy file stamped to the undersigned to evidence the filing of same.

Your cooperation in this matter is greatly appreciated.

Sincerely,

HAYS, McCONN, RICE & PICKERING


Bruce C. Gaible

BCG:jb

Enclosures

HAYS, McCONN, RICE & PICKERING
A Professional Corporation

04909.161 / 1073518.1

400 Two Allen Center | 1200 Smith Street | Houston, Texas 77002
Telephone 713.654.1111 | Facsimile 713.650.0027 | haysmcconn.com

February 1, 2008

Page 2

cc: Mr. Stephen R. Bailey
Cruse, Scott, Henderson & Allen
2777 Allen Parkway
7th Floor
Houston, Texas 77019

(W/Enclosure)

CAUSE NO. 2005-34601

MARCY BERKLEY DICKEY,	§	IN THE DISTRICT COURT OF
INDIVIDUALLY AND AS NEXT FRIEND	§	
OF DASHUN DICKEY AND KRISTIAN	§	
DICKEY	§	
	§	HARRIS COUNTY, TEXAS
vs	§	
	§	
METABOLIFE INTERNATIONAL, INC., ET	§	113 th JUDICIAL DISTRICT
AL		

NOTICE OF ORAL HEARING

To: Plaintiff, by and through her attorneys of record, Stephen R. Bailey, Jay H. Henderson, Cruse, Scott, Henderson & Allen, 2777 Allen Parkway, 7th Floor, Houston, Texas 77019

PLEASE TAKE NOTICE that the Joint Motion to Lift Abatement for the Limited Purpose of Transfer and Joint Motion to Transfer Civil Action Pursuant to Mandatory Provisions of 28 U.S.C. § 157(b)(5) have been set for oral hearing on February 25, 2008, at 9:00 a.m.

The hearing on said motions will take less than 20 minutes and no court reporter is needed.

F I L E D
Theresa Chang
District Clerk

FEB 05 2008

Time: Harris County, Texas
By Deputy

Respectfully submitted,

HAYS, McCONN, RICE & PICKERING

BY: *BG*

BRUCE C. GAIBLE
State Bar No.: 07567400
400 Two Allen Center
1200 Smith Street
Houston, Texas 77002
713/654-1111 Fax: 713/650-0027

ATTORNEY FOR DEFENDANT,
ANUM ENTERPRISES, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument has been duly sent by U. S. mail, certified mail return receipt requested, hand delivery, or by telecopy, on this 5th day of February, 2008 to the following counsel:

Stephen R. Bailey
Jay H. Henderson
Cruse, Scott, Henderson & Allen
2777 Allen Parkway
7th Floor
Houston, Texas 77019

Bruce C. Gaible
Bruce C. Gaible *JB*

CAUSE NO. 2005-34601

MARCY BERKLEY DICKEY,
 INDIVIDUALLY AND AS NEXT FRIEND
 OF DASHUN DICKEY AND KRISTIAN
 DICKEY

vs

METABOLIFE INTERNATIONAL, INC.,
 ET AL

IN THE DISTRICT COURT

OF
 Harris County, Texas
 By Deputy
 HARRIS COUNTY, TEXAS

FILED
 Theresa Chang
 District Clerk

JAN 04 2008

113th JUDICIAL DISTRICT

PLAINTIFF MARCY BERKLEY DICKEY, INDIVIDUALLY AND AS NEXT
 FRIEND OF DASHUN DICKEY AND KRISTIAN DICKEY AND DEFENDANT
 ANUM ENTERPRISES, INC.'S JOINT MOTION TO TRANSFER CIVIL
 ACTION PURSUANT TO MANDATORY PROVISIONS OF
 28 U.S.C. § 157(b)(5)

COMES NOW, Plaintiffs, MARCY BERKLEY DICKEY, INDIVIDUALLY and AS NEXT FRIEND OF DASHUN DICKEY and KRISTIAN DICKEY, and Defendant, ANUM ENTERPRISES, INC., and file this their Joint Motion to Transfer Pursuant to 28 U.S.C. § 157(b)(5), in the above entitled and numbered cause, and would respectfully show unto the court as follows:

Background

A. Facts

Plaintiffs brought suit against Metabolife International, Inc. (hereinafter "Metabolife") in Plaintiffs' Original Petition, which was filed on or about May 23, 2005. The suit is a products liability action involving the herbal epehdra-based weight loss product, Metabolife 356.

On or about July 1, 2005 Plaintiffs' filed their First Amended Original Petition naming Anum Enterprises, Inc. as a defendant (hereinafter "Anum"), and thereafter Anum was served and filed an Answer. Under various theories of liability plaintiffs have alleged causes of action against Metabolife International, Inc. and Anum. Thereafter, Anum asserted that it is entitled to statutory indemnity as against Metabolife for all claims and causes of action asserted by plaintiffs against it.

On or about July 30, 2005 Metabolife filed a Chapter 11 Bankruptcy Petition in the United States Bankruptcy Court, Southern District of California. As a result of the pending bankruptcy action of Metabolife, this current action was stayed as to both the plaintiffs' claims against Metabolife and Anum, as well as Anum's claim for indemnity against Metabolife. Therefore, Plaintiffs and Anum previously asked this court to abate this present suit. Simultaneously with the filing of said motion, Plaintiffs and Anum file this Motion to Transfer for the reasons set forth below.

B. The MDL Proceeding For Ephedra Products

On April 13, 2004, the Judicial Panel on Multidistrict Litigation (the "Panel" or "JPML") issued an order consolidating 15 similar actions involving epehdra-containing products in the Southern District of New York before Judge Jed S. Rakoff pursuant to 28 U.S.C. § 1407(hereinafter "MDL 1598"). *See In re Ephedra Prods.*

Liab. Litig., (J.P.M.L. 2004). The Panel found that the 15 actions “involve common questions of fact, and that centralization under Section 1407 in the Southern District of New York will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation.” Id. The Panel ordered transfer, even though the actions involved differences in the defendants, the products, the legal theories of recovery, and the types of injuries involved, because all of the actions “focus on alleged side effects of ephedra-containing products.” Id.

B. The Bankruptcy Proceeding

Under the weight of continued litigation by consumers of its ephedra-based products, Metabolife filed a Chapter 11 Bankruptcy Petition on or about June 30, 2005, in the United States Bankruptcy Court for the Southern District of California. This operated to invoke bankruptcy jurisdiction over the various claims pending against Metabolife and the other defendants in the various state and federal courts around the country where such claims are pending.

Thereafter, on or about October 24, 2005, the United States District Court for the Southern District of California entered an Order pursuant to 28 U.S.C. § 157(b)(5), that the personal injury tort and wrongful death claims, shall be heard in the United States District Court for the Southern District of California, rather than in state and federal courts throughout the country. As such, the Southern

District of California issued an order regarding transfer of multiple cases, in state and federal courts on June 30, 2005, to the Southern District of New York.

Finally, on or about October 11, 2007, the United States District Court for the Southern District of California entered a Supplemental Order Regarding Transfer of Cases Pursuant to 28 U.S.C. § 157(b)(5), which included *Dickey v. Metabolife, et al.*, 113th Judicial District Court for Harris County, Texas, Case No. 2005-34601. In particular, the Southern District of California ordered transfer of *Dickey v. Metabolife, et al.*, to the Southern District of California, only temporarily, for the purpose of forwarding it on to the Ephedra MDL Action in the Southern District of New York. As such, the parties hereby request transfer of this case to the Southern District of California.

MOTION TO TRANSFER

The basis for this Motion to Transfer is the mandatory venue determinations of a personal injury case provided in title 28 U.S.C. § 157(b)(5):

“The district court shall order that personal injury, tort and wrongful death claims shall be tried in the district court in which the bankruptcy case is pending, or the district court in the district in which the claim arose, as determined by the district court in which the bankruptcy case is pending. (Emphasis added).” 28 U.S.C. § 157(b)(5). Under the mandatory language of 28 U.S.C. § 157(b)(5), the “Home” District Court in which the debtor’s case was filed (or is pending) has the exclusive

jurisdiction over any court action against the debtor irrespective of where the claim was originally filed.

It is the general policy of the Bankruptcy Court that all proceedings in a bankruptcy case be conducted in the district in which the bankruptcy petition was filed (the "home court").¹ Further, for all purposes of liquidation of the amount of these claims where a right to a jury trial exists- jurisdiction for such jury trial liquidation of the amount of these personal injury claims is vested in the United States District Court pursuant to 28 U.S.C. § 157(b)(5). It is only the Federal District Court which may determine the venue for trial of these cases. No actions taken after the filing of Metabolife's Chapter 11 case may determine which court will conduct a trial of this matter, except that Federal District Court. *In A.H. Robbins, Inc. v. Piocc*, 788 F.2d 994 (4th Cir. 1986), cert. denied, 479 U.S. 876 (1986), the Fourth Circuit had "no difficulty" in finding that the district court in which the bankruptcy was pending had authority under § 157(b)(5) to determine where personal injury tort actions pending against the debtor would proceed. In analyzing the grant of "power" for the district court pursuant to Section 157(b)(5), the Fifth Circuit in *Baumgart v. Fairchild Aircraft Corp.*, 981 F.2d 824 (5th Cir. 1993) said "the district court in which the bankruptcy is pending shall have the added power to order tried in its own venue

¹ *In re Barley*, 738 F.2d 981, 988 (9th Cir. 1984); *Kotlicky v. Belford*, 64 Bankr. Rptr., 689, 691 (N.D. Ill. 1986) (a strong presumption exists favoring transfer to the home court); see also 1 Collier on Bankruptcy 11-3.02[2][a] at 3-136 (15th Ed. 1989) ("[U]nless strong reasons can be shown to the contrary, the home court is the proper venue for civil proceedings.").

personal injury tort and wrongful death claims filed elsewhere, or to order such cases tried in the district court where those claims arose." *Id.*

In the case at bar, Metabolife International filed a Chapter 11 Bankruptcy Petition in the United States Bankruptcy Court for the Southern District of California. Therefore, the Southern District of California has the exclusive jurisdiction over this action. Accordingly, the United States District Court for Southern District of California has determined the transfer of this case is proper to the United States District Court for the Southern District of California, as reflected in the court's Supplemental Order Regarding Transfer of Cases Pursuant to 28 U.S.C. § 157(b)(5). See Supplemental Order attached hereto as Exhibit "A".

Therefore, transfer of this case to the United States District Court for the Southern District of California is required. As such, the parties hereby request that this Court transfer this case to the United States District Court for the Southern District of California, so that once received by the United States District Court for the Southern District of California, it may be transferred as a tag-along action to the existing multi-district litigation styled "In re Ephedra Products Liability Litigation" No. 04-1598 (JSR), pending in the United States District Court for the Southern District of New York.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs and Anum request that this court grant their Motion to Transfer and transfer this case to the United

States District Court for the Southern District of California, and for such other and further relief, both special and general, at law and equity, to wit these parties may be justly entitled.

Respectfully submitted,

HAYS, McCONN, RICE & PICKERING

BY: B.C. Gaible

BRUCE C. GAIBLE
State Bar No.: 07567400
400 Two Allen Center
1200 Smith Street
Houston, Texas 77002
713/654-1111 Fax: 713/650-0027

ATTORNEY FOR DEFENDANT,
ANUM ENTERPRISES, INC.

CRUSE, SCOTT, HENDERSON
& ALLEN, L.L.P.

BY: Stephen R. Bailey

Stephen R. Bailey *By Permission
State Bar No.: 01536660
2777 Allen Parkway 7th Floor
Houston, TX 77019
(713)650-6600 Fax (713)650-1720

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

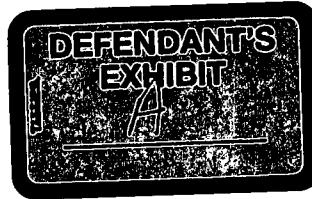
I hereby certify that a true and correct copy of the above and foregoing instrument has been duly sent by U. S. mail, certified mail return receipt requested, hand delivery, or by telecopy, on this 4th day of December, 2007 to the following counsel:

January, 2008

Stephen R. Bailey
Jay H. Henderson
Cruse, Scott, Henderson & Allen
2777 Allen Parkway
7th Floor
Houston, Texas 77019

B.C.

Bruce C. Gaible



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
FILED

2007 OCT 11 AM 8:37

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY AO DEPUTY

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

CASE NO. 05cv1802-IEG (RBB)

**SUPPLEMENTAL ORDER REGARDING
TRANSFER OF CASES PURSUANT TO
28 U.S.C. § 157(b)(5)**

In Re:

MII LIQUIDATION fka METABOLIFE
INTERNATIONAL, INC. and ALPINE
HEALTH PRODUCTS, LLC,

Debtors/Petitioners

On or about October 24, 2005, this Court entered its Order granting the petition of the Debtors-in-Possession pursuant to 28 U.S.C. § 157(b)(5) for an order determining that personal injury tort and wrongful death ("PITWD") claims, which cannot be tried in bankruptcy court, shall be heard in this district court rather than in state and federal courts throughout the country ("PITWD Order").

On or about December 2, 2005, Debtors-in Possession provided the Court with a list identifying Ephedra Actions which were not part of the MDL proceeding as of the date of the filing of the Metabolife and Alpine Health bankruptcy petitions on June 30, 2005. This Court ordered that those cases be transferred to this Court.

810415.1

1 At this time, there remain five actions which were not included on that list and therefore
 2 have not yet been transferred to this Court pursuant to the PITWD Order due to the fact that they
 3 were either not yet filed, or were inadvertently overlooked. Those actions are: (1) *Bilderback v.*
 4 *Metabolife, et al.* Washington Superior Court for Pierce County, Case No. 05-2-06767-1;
 5 (2) *Dickey v. Metabolife, et al.* 113th Judicial District Court for Harris County, Texas, Case No.
 6 2005-34601; (3) *German v. Metabolife, et al.* San Diego Superior Court, Case No. GIC 849826;
 7 (4) *Hazelwood v. Metabolife, et al.* Circuit Court of Jackson County, Missouri at Kansas City,
 8 Case No. 04cv233637; *Sobczak v. Metabolife, et al.* San Diego Superior Court,
 9 Case No. GIC 849722 ("Five Remaining Cases").

10 Based upon the Court's November 3, 2005 order and on the stipulations signed by counsel
 11 for each of the respective parties named in the Five Remaining Cases (which are attached hereto
 12 as Exhibit 1) and to effect the transfer of the Five Remaining Cases to this Court, the Court
 13 hereby orders as follows:

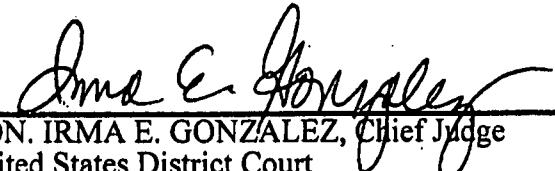
14 1. Each of the Five Remaining Cases shall be transferred forthwith to this Court. Counsel
 15 for Debtors-in-Possession shall take such action as is necessary to transfer venue of the identified
 16 Five Remaining Cases to this Court;

17 2. The Five Remaining Cases are to be transferred to this Court only temporarily, for the
 18 purpose of forwarding them on to the Ephedra MDL Action in the Southern District of New
 19 York. Counsel for Debtors-in-Possession shall take such action as is necessary to complete the
 20
 21 ///
 22 ///
 23 ///
 24
 25
 26
 27
 28

1 transfer of said cases to the MDL, including, but not limited to notifying the JPML of the transfer
2 to this Court and requesting a CTO for transfer to the Southern District of New York.

3 **IT IS SO ORDERED.**

4 DATED: 10/10/07

5 
6 HON. IRMA E. GONZALEZ, Chief Judge
7 United States District Court
8 Southern District of California

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

810415.1

3

1

2

3

4

5

6

7

THE HONORABLE THOMAS J. FELNAGLE

8

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

9

10 DENNIS C. BILDERBACK, Jr. and
DAPHNE BILDERBACK, husband and wife,
individually and the marital community
composed thereof,

NO. 05-2-06767-1

11

Plaintiffs,

STIPULATION FOR TRANSFER

12

v.

13

14 MORTON GENERAL HOSPITAL;
RONALD J. WILLIAMS, M.D.;
15 METABOLIFE INTERNATIONAL, INC., a
California corporation; and THE CHEMINS
COMPANY, INC., a Colorado corporation;

16

Defendants.

17

18 IT IS HEREBY STIPULATED by and between the parties hereto, through their
19 respective counsel of record, and pursuant to 28 USC Section 133(b)(5), that the above-
captioned matter be transferred to the United States District Court for the Southern District of
20 California.

21

22 The undersigned further stipulate that this action, once received by the United States
23 District Court for the Southern District of California, is a tag-along action to the existing multi-
district litigation styled "In re Ephedra Products Liability Litigation," No. 04-1598 (JSR),

24

STIPULATION FOR TRANSFER - 1

12360 Lake City Way NE, #420
Seattle, WA 98125

LAW OFFICES OF REED SCHIFFERMAN Tel: 206-365-3650

1 pending in the United States District Court for the Southern District of New York.

2 The undersigned agree:

3 • That the United States Judicial Panel on Multidistrict Litigation ("JPML") should
4 forthwith send this action, pursuant to a Conditional Transfer order ("CTO"), to the
5 Ephedra MDL; and
6 • To cooperate in the designation of this action as a tag-along action and waive, to the
7 extent permissible under the JPML rules, any opportunity to object to or oppose such
8 CTO.

9 **IT IS SO STIPULATED:**

10 DATED this ____ day of July, 2007.

11 Dated: 7-6-07

12 LAW OFFICES OF REED SCHIFFERMAN

13 By Reed Schif

14 Reed P. Schifferman, WWSA #11172
15 Attorneys for Plaintiffs

16 Dated: 7/6/07

17 JOHNSON GRAFFE KEAY MONIZ & WICK

18 By A. Clarke Johnson

19 A. Clarke Johnson, WWSA #8280
20 Attorneys for Defendants Williams and Morton
21 General Hospital

22 STIPULATION FOR TRANSFER - 2

23 12360 Lake City Way NE, #420
24 Seattle, WA 98135

LAW OFFICES OF REED SCHIFFERMAN Tel: 206-365-3650

1 pending in the United States District Court for the Southern District of New York.

2 The undersigned agree:

3 • That the United States Judicial Panel on Multidistrict Litigation ("JPML") should
4 forthwith send this action, pursuant to a Conditional Transfer order ("CTO"), to the
5 Ephedra MDL; and

6 • To cooperate in the designation of this action as a tag-along action and waive, to the
7 extent permissible under the JPML rules, any opportunity to object to or oppose such
8 CTO.

9 **IT IS SO STIPULATED:**

10 DATED this _____ day of July, 2007.

11 Dated: 7-6-07

12 LAW OFFICES OF REED SCHIFFERMAN

13 By _____

14 Reed P. Schiffman, WSBA #11172

15 Attorneys for Plaintiffs

16 Dated: _____

17 JOHNSON GRAFFE KEAY MONIZ & WICK

18 By _____

19 A. Clarke Johnson, WSBA #8280

20 Attorneys for Defendants Williams and Morton
21 General Hospital

1 pending in the United States District Court for the Southern District of New York.

2 The undersigned agree:

3 • that the United States Judicial Panel on Multidistrict Litigation ("JPML") should
4 forthwith send this action, pursuant to a Conditional Transfer Order ("CTO"), to the Ephedra
5 MDL; and
6
7 • to cooperate in the designation of this action as a tag-along action and waive, to
8 the extent permissible under the JPML rules, any opportunity to object to or oppose such CTO.

9
10 **IT IS SO STIPULATED:**

11 DATED: October 2, 2007

12 HIGGS, FLETCHER & MACK LLP

13 By: 

14 WILLIAM M. LOW, ESQ.
15 Attorneys for Defendant,
16 Metabolife International, Inc.

CAUSE NO. 2005-34601

MARCY BERKLEY DICKEY,
INDIVIDUALLY AND AS NEXT FRIEND
OF DASHUN DICKEY, AND
KRISTIAN DICKFY
Plaintiffs,

VS.

METABOLIFE INTERNATIONAL, INC.,
WAL-MART STORES, INC.,
MUSCLETECH RESEARCH
DEVELOPMENT, INC.,
RUSCHE PROPERTIES I LLC, AND
ANUM ENTERPRISES, INC.
Defendants.

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

113th JUDICIAL DISTRICT

STIPULATION FOR TRANSFER

IT IS HEREBY STIPULATED by and between the parties hereto, through their respective counsel of record, and pursuant to 28 U.S.C. § 1337 (b) (5), that the above-captioned matter be transferred to the United States District Court for the Southern District of California.

The undersigned further stipulate that this action, once received by the United States District Court for the Southern District of California, is a tag-along action to the existing multi-district litigation styled "In re Ephedra Products Liability Litigation," No. 04-1598 (JSR), pending in the United States District Court for the Southern District of New York.

The undersigned agree:

H:\DATA\mbd001\70148\423225.DOC

- that the United States Judicial Panel on Multidistrict Litigation ("JPML") should forthwith send this action, pursuant to a Conditional Transfer Order ("CTO"), to the Ephedra MDL; and
- to cooperate in the designation of this action as a tag-along action and waive, to the extent permissible under the JPML rules, any opportunity to object to or oppose such CTO.

IT IS SO STIPULATED:

DATED: 6/11/07

CRUSE, SCOTT, HENDERSON & ALLEN, LLP

By: Ally Berkley

Stephen R. Bailey
Texas Bar No. 01536660
2777 Allen Parkway, 7th Floor
Houston, Texas 77019
Tel: (713) 650-6600
Fax: (713) 650-1720
E-mail: sbailey@crusescott.com

*Attorneys for Plaintiffs,
Marcy Berkley Dickey, Individually
and As Next Friend of Dashun Dickey,
and Kristian Dickey*

DATED: 8/9/07

HAYS, McCONN, RICE & PICKERING

By: BG

Bruce C. Galble
Texas Bar No. 07567400
400 Two Allen Center
1200 Smith Street
Houston, Texas 77002
Tel: (713) 654-1111
Fax: (713) 650-0027

*Attorneys for Defendant
Anum Enterprises, Inc.*

DATED: October 2, 2007

HIGGS, FLETCHER & MACK, L.L.P.

By

William M. Low
First National Bank Building
401 West "A" Street, Suite 2600
San Diego, CA 92101
Tel: (619) 238-1651
Fax: (619) 696-1410

Spencer, H. Low, Esq.
Attorneys for Defendant

1 JOHN C. THORNTON, ESQ. SBN: 84492
2 ANNE ANDREWS, ESQ. SBN: 103280
3 **ANDREWS & THORNTON**
4 2 CORPORATE PARK, SUITE 110
5 IRVINE, CALIFORNIA 92606
6 TELEPHONE: (949) 748-1000
7 FACSIMILE: (949) 315-3540

5 | Attorneys for Plaintiffs

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

10 CAROLYN GERMAN and GLEN GERMAN.

CASE NO. GIC 849826

STIPULATION FOR TRANSFER

Plaintiffs,

vs.

14 **METABOLIFE INTERNATIONAL, INC.L**
15 **MICHAEL EILIS; ROBERT BRADLEY;**
MICHAEL BLEVINS and DOES 1 through
100, inclusive,

Defendants.

IT IS HEREBY STIPULATED by and between the parties hereto, through their respective counsel of record, and pursuant to 28 U.S.C. § 157 (b) (5), that the above-captioned matter be transferred to the United States District Court for the Southern District of California.

The undersigned further stipulate that this action, once received by the United States District Court for the Southern District of California, is a tag-along action to the existing multi-district litigation styled "In re Ephedra Products Liability Litigation," No. 04-1598 (JSR), pending in the United States District Court for the Southern District of New York.

1 The undersigned agree:

2 • that the United States Judicial Panel on Multidistrict Litigation ("JPML") should
3 forthwith send this action, pursuant to a Conditional Transfer Order ("CTO"), to the
4 Ephedra MDL; and
5 • to cooperate in the designation of this action as a tag-along action and waive,
6 to the
7 extent permissible under the JPML rules, any opportunity to object to or oppose such
8 CTO.

11 **IT IS SO STIPULATED:**

14 Dated: Oct 7, 2007

13
15 By: hct
16 **ANDREWS & THORNTON**
17 Anne Andrews
18 John C. Thornton
19 Attorneys for Plaintiffs

21 Dated: _____

22 **HIGGS, FLETCHER & MACK, LLP**

23 By: _____

1 pending in the United States District Court for the Southern District of New York.

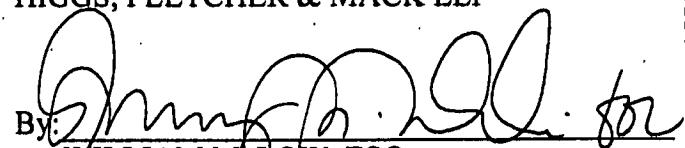
2 The undersigned agree:

3 • that the United States Judicial Panel on Multidistrict Litigation ("JPML") should
4 forthwith send this action, pursuant to a Conditional Transfer Order ("CTO"), to the Ephedra
5 MDL; and
6 • to cooperate in the designation of this action as a tag-along action and waive, to
7 the extent permissible under the JPML rules, any opportunity to object to or oppose such CTO.

8
9
10 **IT IS SO STIPULATED:**

11 DATED: _____

12 HIGGS, FLETCHER & MACK LLP

13 By: 

14 WILLIAM M. DOW, ESQ.
15 Attorneys for Defendant,
16 Metabolife International, Inc.

17

18

19

20

21

22

23

24

25

26

27

28

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY

DARRIN HAZELWOOD)

Plaintiff,)

v.)

METABOLIFE INTERNATIONAL,)
INC., a corporation;)
METABOLIFE INTERNATIONAL)
LLC, a company; GLOBAL)
METABOLIFE 356 LLC, a company;)

Defendants.)

Case No.: 04CV233637
Division No.: 4

STIPULATION FOR TRANSFER

IT IS HEREBY STIPULATED by and between the parties hereto, through their respective counsel of record, and pursuant to 28 U.S.C. § 157 (b) (5), that the above-captioned matter be transferred to the United States District Court for the Southern District of California.

The undersigned further stipulate that this action, once received by the United States District Court for the Southern District of California, is a tag-along action to the existing multi-district litigation styled "In re Ephedra Products Liability Litigation," No. 04-1598 (JSR), pending in the United States District Court for the Southern District of New York.

The undersigned agree:

- that the United States Judicial Panel on Multidistrict Litigation ("JPML") should forthwith send this action, pursuant to a Conditional Transfer Order ("CTO"), to the Ephedra MDL; and

• to cooperate in the designation of this action as a tag-along action and waive, to the extent permissible under the JPML rules, any opportunity to object to or oppose such CTO.

IT IS SO STIPULATED:

Respectfully submitted,

PETERSON & ASSOCIATES, P.C.


 David M. Peterson #32229
 Samuel M. Wendt #53573
 Nicholas S. Clevenger #57171
 Peter E. Goss #57933
 The Park Plaza Building
 801 West 47th Street, Suite 107
 Kansas City, Missouri 64112
 Phone: (816) 531-4440
 Fax: (816) 531-0660

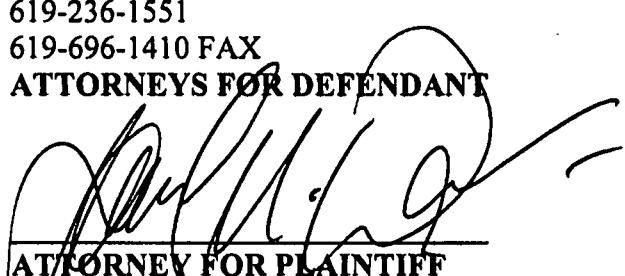
ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE:

I hereby certify that on this 18th day of June, 2007 a true and correct of the above and foregoing document was sent via U.S. Mail postage prepaid to:

Higgs, Fletcher & Mack LLP
 William M. Low, Esquire
 Mary R. Robberson, Esquire
 401 West "A" Street, Suite 2600
 San Diego, CA 92101
 619-236-1551
 619-696-1410 FAX

ATTORNEYS FOR DEFENDANT


ATTORNEY FOR PLAINTIFF

pending in the United States District Court for the Southern District of New York.

The undersigned agree:

- that the United States Judicial Panel on Multidistrict Litigation ("JPML") should forthwith send this action, pursuant to a Conditional Transfer Order ("CTO"), to the Ephedra MDL; and
- to cooperate in the designation of this action as a tag-along action and waive, to the extent permissible under the JPML rules, any opportunity to object to or oppose such CTO.

IT IS SO STIPULATED:

DATED: October 2, 2007

HIGGS, FLETCHER & MACK LLP

By


WILLIAM M. LOW, ESQ.
Attorneys for Defendant,
Metabolife International, Inc.

Trent B. Miracle
SIMMONSCOOPER LLC
707 Berkshire Blvd.
East Alton, IL 62024
(618) 259-2222
Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

Nicole A. Sobczak, Individually,

Plaintiff,

v.

Metabolife International, Inc., and
DOES 1 through 50,

Defendants.

CASE NO. GIC 849722

STIPULATION FOR TRANSFER

IT IS HEREBY STIPULATED by and between the parties hereto, through their respective counsel of record, and pursuant to 28 U.S.C. § 157 (b) (5), that the above-captioned matter be transferred to the United States District Court for the Southern District of California.

The undersigned further stipulate that this action, once received by the United States District Court for the Southern District of California, is a tag-along action to the existing multi-district litigation styled "In re Ephedra Products Liability Litigation," No. 04-1598 (JSR), pending in the United States District Court for the Southern District of New York.

The undersigned agree:

- that the United States Judicial Panel on Multidistrict Litigation ("JPML") should forthwith send this action, pursuant to a Conditional Transfer Order ("CTO"), to the Ephedra MDL; and
- to cooperate in the designation of this action as a tag-along action and waive, to the extent permissible under the JPML rules, any opportunity to object to or oppose such CTO.

IT IS SO STIPULATED:

DATED: 6-11-07

SIMMONSCOOPER LLC

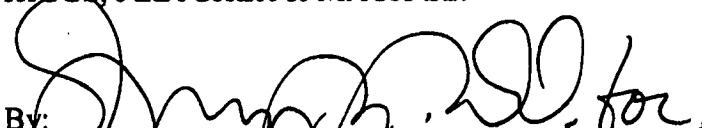
By:


TRENT B. MIRACLE, ESQ.
Attorney for Plaintiff,

DATED: October 2, 2007

HIGGS, FLETCHER & MACK LLP

By:


WILLIAM M. LOW, ESQ.
Attorneys for Defendant,

**MII LIQUIDATION fka METABOLIFE
INTERNATIONAL, INC. and ALPINE
HEALTH PRODUCTS, INC.**

CASE NO. 05cv1802-IEG (RBB)

PROOF OF SERVICE

I, Denise L. Saria, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within-entitled action; my business address is 401 West "A" Street, Suite 2600, San Diego, California 92101-7913. On October 5, 2007, I served the within documents, with all exhibits (if any):

**SUPPLEMENTAL ORDER REGARDING TRANSFER OF
CASES PURSUANT TO 28 U.S.C. § 157(b)(5)**

- by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m. A copy of the transmission report issued by the transmitting facsimile machine is attached hereto.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Diego, California addressed as set forth below.
- by placing the document(s) listed above in a sealed _____ envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a _____ agent for delivery. A true and correct copy of the airbill is attached hereto.
- by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- by transmitting via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below.

See attached Service List

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. Executed on October 5, 2007, at San Diego, California.

On October 5, 2007, at San Diego, California.

Denise R. Ami

Denise L. Saria

1 SERVICE LIST

2 Stephen R. Bailey, Esq.
 3 Texas State Bar No. 01536660
 4 2777 Allen Parkway, 7th Floor
 Houston, Texas 77019
 Tel: 713.650.6600
 Fax: 713.650.1720
 Email: sbailey@crusescott.com

Trent B. Miracle, Esq.
 SIMMONSCOOPER LLC
 707 Berkshire Boulevard
 East Alton, Illinois 62024
 Tel: 618.259.2222

6 *Attorneys for Plaintiff,*
 7 *Marcy Berkley Dickey, Individually*
and As Next Friend of Dashun Dickey,
and Kristian Dickey

8 Bruce C. Gaible, Esq.
 9 Texas Bar No. 07567400
 10 400 Two Allen Center
 11 1200 Smith Street
 Houston, Texas 77002
 Tel: 713.654.1111
 Fax: 713.650.0027

David M. Peterson, Esq.
 Samuel M. Wendt, Esq.
 Nicholas S. Clevenger, Esq.
 Peter E. Gross, Esq.
 PETERSON & ASSOCIATES, P.C.
 The Park Plaza Building
 801 West 47th Street, Suite 107
 Kansas City, Missouri 64112
 Tel: 816.531.4440
 Fax: 816.531.0660

12 *Attorney for Defendant*
 13 *Anum Enterprises, Inc.*

14 *Attorneys for Plaintiff,*
 15 *Darrin Hazelwood*

16 Reed P. Schiffferman, Esq.
 WSBA #11172
 17 Law Offices of Reed Schiffferman
 12360 Lake City Way, NE, #420
 Seattle, Washington 98125
 Tel: 206.365.3650
 Fax: 206.365.3898

19 *Attorneys for Plaintiffs,*
 20 *Dennis C. Bilderback, Jr. and*
Daphne Bilderback, husband and wife,
 21 *individually and the marital community*
composed thereof

22 A. Clarke Johnson, Esq.
 WSBA #8280
 23 JOHNSON GRAFFE KEAY MONIZ & WICK
 24 925 Fourth Avenue, Suite 2300
 Seattle, Washington 98104-1158
 Tel: 206.223.4770
 Fax: 206.386.7344

26 *Attorneys for Defendants,*
 27 *William and Morton General Hospital*